

PROCEEDINGS OF THE COMMON COUNCIL  
IN REGULAR SESSION  
TUESDAY, SEPTEMBER 28, 19 93

CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE  
COUNCIL CHAMBERS Tuesday EVENING September, 1993  
IN Regular SESSION. PRESIDENT Mark E. GiaQuinta  
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine, AND  
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE  
FOLLOWING MEMBERS  VIZ:

BRADBURY P , EDMONDS P , GiaQUINTA P ,  
HENRY P , LONG P , LUNSEY P ,  
RAVINE P , SCHMIDT P , TALARICO P ,

ABSENT: \_\_\_\_\_

COUNCILMEMBER: \_\_\_\_\_

THE MINUTES OF THE LAST REGULAR September 14, 1992  
\_\_\_\_\_, 19\_\_  
SPECIAL \_\_\_\_\_, 19\_\_

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,  
APPROVED AND PUBLISHED.

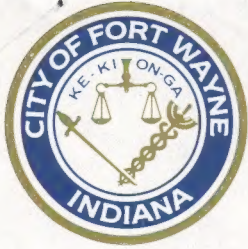
THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 28th day of September, 1993, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 30th day of September, 1993.

Sandra E. Kennedy  
City Clerk



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 13, 1993

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-93-06-19

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
13th day of September 1992.

Robert Hutner  
Secretary

/pb

CC: File

**FACT SHEET**

Z-93-06-19

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From B1A, R1 &amp; B2A to B1B &amp; R-1

**DETAILS****Specific Location and/or Address**

Northeast corner of Maplecrest &amp; Stellhorn Roads.

**Reason for Project**

In order to get a more orderly development located on this corner.

**Discussion (Including relationship to other Council actions)**21 June 1993 - Public Hearing

See Attached Minutes of Meeting

28 June 1993 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation contingent upon the following:

1) As a landscape buffer was a mandated requirement of approval when this site was developed, the developer should enter into a restrictive covenant (or alternative contractual means) setting forth the establishment and maintenance of a landscaping buffer as originally shown on the development plan, and should run to the satisfaction and enforcement of the Maplewood Terrace and Downs Neighborhood Association.

When such document is signed and recorded, we recommend the following:

**POSITIONS****RECOMMENDATIONS**

<b>Sponsor</b>	City Plan Commission
<b>Area Affected</b>	City Wide  Other Areas
<b>Applicants/ Proponents</b>	Applicant(s) MacKids Inc City Department  Other
<b>Opponents</b>	Groups or Individuals Rudolph Wuttke, 5124 Pheasant Nadine Recht, 6853 Woodcrest <b>Basis of Opposition</b> -would increase the traffic in an area that already has a serious traffic problem
<b>Staff Recommendation</b>	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against  Reason Against
<b>Board or Commission Recommendation</b>	By  <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
<b>CITY COUNCIL ACTIONS (For Council use only)</b>	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass



**DETAILS**

The southern acreage as described in the petition should be rezoned to B-1-B, and the northern acreage as described in the petition should be rezoned to R-1, all for the following reasons:

- 1) Approval is consistent with the Comprehensive Plan.
- 2) Approval is consistent with the existing development and zoning patterns in the area.
- 3) Approval should not have a negative impact on area property values.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

NOTE: This petition has been held pending the petitioner satisfying the above stated conditions.

**POLICY / PROGRAM IMPACT**

<b>Policy or Program Change</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Operational Impact Assessment</b>	

(This space for further discussion)

**Project Start**

**Date** 12 May 1993

**Projected Completion or Occupancy**

**Date** 13 September 1993

**Fact Sheet Prepared by**

**Date** 13 September 1993

Patricia Biancaniello

**Reviewed by**

**Date** 14 September 1993

  
**Reference or Case Number**

- a. Bill No. Z-93-06-19 - Change of Zone #539  
From B-1-A, B-2-A & R-1 to B-1-B; and  
From R-1 and B-2-A to R-1  
Northeast corner of Maplecrest & Stellhorn Roads

William Swift, attorney for the petitioners and owners McKids Inc., appeared before the Commission. Mr. Swift stated that McKids Inc., owns the shopping center and the property immediately to the east. He stated that the parcels on Stellhorn Road are not owned by McKids Inc as well as a house immediately to the east of the parking area of the shopping center. He stated that the petitioner however does own more than 50% of the property in question. Mr. Swift stated that they originally wanted to have the entire 28 acre parcel rezoned to B-2-A and in meeting with the Plan Commission staff they were convinced that it was not the right procedure. He stated that what they have applied for now is a compromise. He stated that it is a suggested method of trying to get control of the development of this particular corner. He stated that in essence they are rezoning the main shopping center itself and the parcel south of it, that fronts on Stellhorn Road, from their existing zoning classifications of B-2-A, B-1-A and R-1 to B-1-B. He stated to the north of the shopping center there is a parcel that adjoins the residential community. He stated that they are asking to rezone that to R-1. He stated that the 8 acres on the east side of the shopping center will be left at its present classification, which is R-3 and R-2. He stated that the intent is to give the developer some ability to expand the uses in the shopping center itself and bring the parcels on the south into a consistent zoning with the shopping center. He stated that they wanted to rezone the property on the north to residential to buffer the residential area to the north. He stated that in addition to rezoning the property on the north to R-1 the petitioner has discussed with the staff that they are willing to enter into a landscape plan on that area. He stated a plan that they feel should be approved by the City Plan Commission staff, but be enforceable by the neighbors in the area. He stated that this property was in the county when it was originally rezoned to a C2A. It was then almost immediately annexed. He stated that in the county the C2A does permit a car wash. He stated that the B2A classification given to the parcel by the city after annexation specifically excludes a car wash. He stated that they lost the use of the car wash upon annexation. He stated that one of the uses that they propose to use on the very southern end of this shopping center parcel would be a car wash. He stated that they hope by changing the zoning to a B-1-B they will gain the car wash use back. He stated that they feel that this zoning is compatible with the other zoning at the 4 corners of this particular intersection. He stated that his clients are willing to dedicate any additional right-of-way needed for the widening of Maplecrest Road and/or Stellhorn Road. He stated that the 8 acres on the east side will remain zoned residential at this point. He stated that in the discussions with staff they would not come in for any rezoning on that property without having a definite development plan and uses that would be consistent with buffering the shopping center with

the residential area to the north and to the east.

Mel Smith questioned what the size of the buffer was that was to remain R-1 to the north.

Mr. O'Brien stated that it was approximately 140 feet deep along the Maplecrest Road frontage and 800 feet east.

Mel Smith questioned what was on the property.

Kerry Dickmeyer, engineer, stated that there is very little vegetation on the property and just a couple of telephone poles.

Rudolph Wuttke, 5124 Pheasant Run appeared before the Commission in opposition to the rezoning. Mr. Wuttke stated that he was on the Board of Directors of the Bohde Grove Association. Mr. Wuttke stated that the purpose of the rezoning is to increase the number of and type of businesses in the Stellhorn Shopping Center. He stated that at the present time there are about 12 businesses in there. He stated that the News Sentinel carried an article which stated that the total combined dollar value for the three shopping centers located at the Maplecrest and Stellhorn area was near the top in the state, excluding the enclosed malls. He stated that the area is a residential neighborhood. He stated that businesses have been permitted to move in and expand to the detriment and well being of the residents of the surrounding neighborhoods. He stated that he was sure that everyone was aware of the volume of traffic in the Stellhorn and Maplecrest area as a result of these three shopping centers at this intersection. He stated that if the request for the B-1-B zoning is approved it is not difficult to envision the increase of traffic volume. He stated that on February 25, 1993 the Board of Zoning Appeals unanimously turned down a request for a car wash at the northwest corner of Stellhorn Shopping Center. He stated that the action was taken mainly because of the concern of the increased traffic volume on Maplecrest Road. He stated that this proposed zoning would permit a car wash in the center. He stated that permitting the rezoning request would contribute to an already bad traffic situation. He stated that Stellhorn Road is in the final stages of being widened to 4-lanes from Coliseum Blvd., to the Maplecrest Road intersection, but not beyond Maplecrest where this rezoning has been requested. He stated that at a public information meeting on May 18, 1993 it was disclosed that the widening of Maplecrest Road from St. Joe Center Road to Stellhorn Road would not begin until late 1996 or early 1997. He stated that is three years down the road. He stated that if the requested rezoning is granted the resulting increased businesses and the traffic they will generate will create a traffic gridlock the likes of Fort Wayne and Allen County have not seen. He questioned the developer about putting up a landscape screen on the north portion of the property that is to be zoned R-1. He stated that a landscape screen was to be put up when the property was originally rezoned for the shopping center and it has not been done. He felt they could not rely on them to landscape that area in the future. He stated that if they are

looking for an area to expand businesses to why not the three vacant areas at the intersection of Stellhorn and Lahmeyer Roads.

Nadine Recht, 6853 Woodcrest Drive, she stated that she also owns a home across from the property that they are trying to rezone. She stated that Mr. Wuttke had stated a lot of her concerns already. She stated that it appeared to her that little planning has been done on this project. She stated that if the car wash was rejected for Maplecrest access, it certainly should be rejected for Stellhorn, because besides being very busy now, Stellhorn is already receiving the traffic from I-469, and it certainly will become more congested. She stated that she was representing 415 families in Maplewood.

Mr. Swift stated that he did not have any rebuttal. He stated that the question that had been directed about the landscaped had been addressed. He stated that they do agree to enter into a landscaping plan in the buffer area to the north. The plan would have to be approved by the City Plan Commission staff and would run to the neighboring community association.

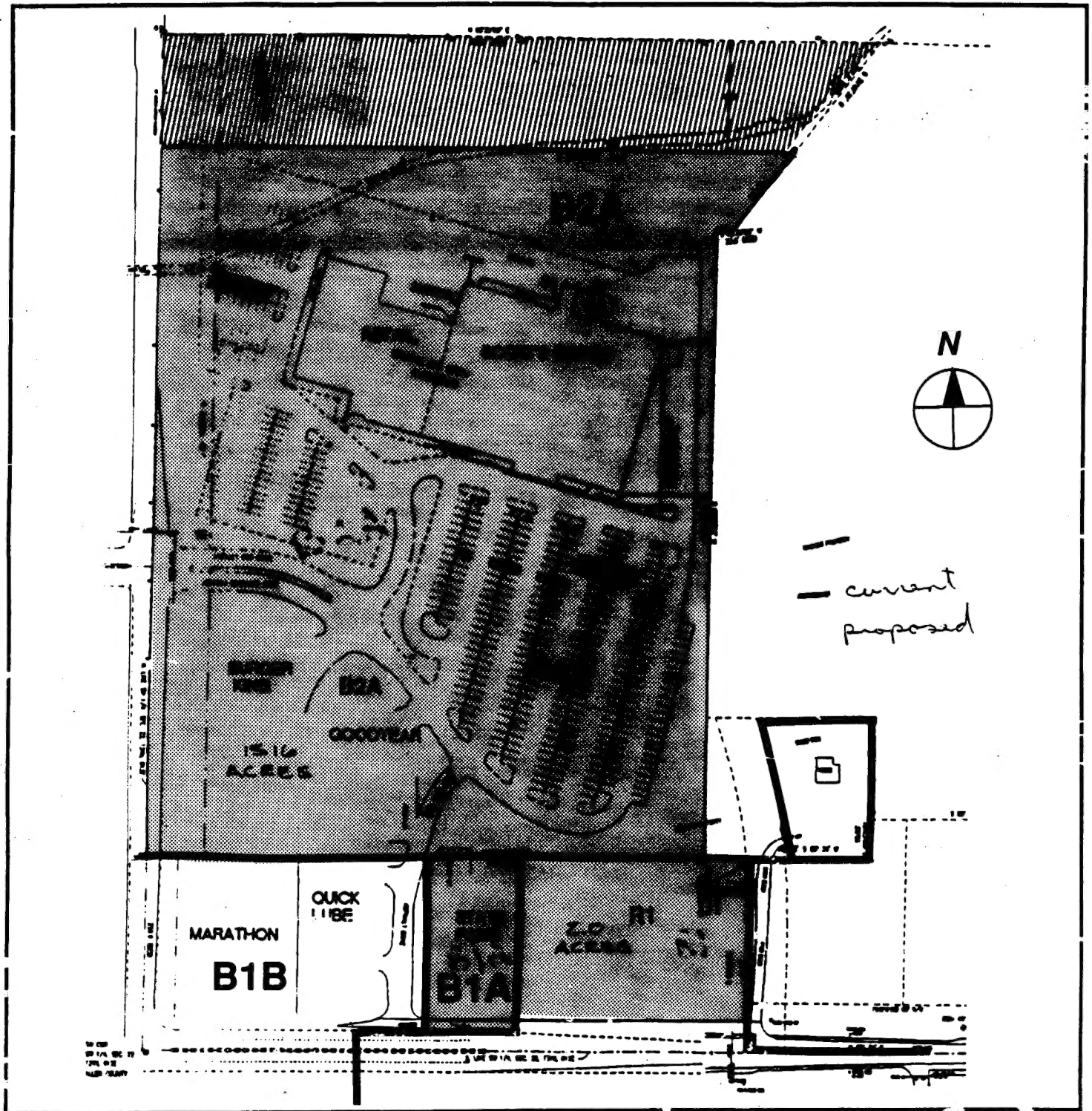
There was no one else present who spoke in favor of or in opposition to the proposed rezoning.



# REZONING PETITION

AREA MAP

CASE NO. #539



COUNCILMANIC DISTRICT NO. 2

Map No. V-30

LW 5-19-93

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 22, 1993 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-93-06-19; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 21, 1993.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;


(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 28, 1993.

Certified and signed this  
13th day of September 1993.



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Robert Hutner  
Secretary

William Swift, attorney for MacKIDS, INC., requests a change of zone from B-1-A, B-2-A and R-1 to B-1-B and from R-1 and B-2-A to R-1.

Location: NE corner of Maplecrest and Stellhorn Roads

Legal: See file

Land Area: Approximately 19.7 acres.

Zoning: B-2-A, B-1-A, and R-1

Surroundings:	North	County	Residential (Single Family)
	South	B1/R1	Commercial & Residential
	East	R-3/B1B	Residential
	West	B1B	Commercial

Reason for Request: Not stated on petition

Neighborhood Assoc.: None

Comprehensive Plan: The general land use policies of the Comprehensive Plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Northeast Sector of the Outer Ring. The goal of the Northeast Sector is to maintain a balanced development pattern within the urban service area.

Neighborhood Plan: No comment.

Landscape: The present zoning allows for site and landscape plan review for any future site modifications. Rezoning will remove almost all the existing landscape standards and would even allow the owner to remove some of the existing landscaping. Properties which have complex site plans and interactive design elements should be in planned districts so that the maximum benefit to the community and owners may be balanced more effectively. This site has those qualities.

#### Planning Staff Discussion:

Originally developed under the jurisdiction of the county, this

area was annexed fairly recently. The petitioned property is located at the northeast corner of Maplecrest and Stellhorn Roads. The other three corners of this intersection are zoned B-1, with B-1-B being the predominant zoning.

This petition offers the Plan Commission the opportunity to establish a growth policy for this area. Staff is concerned with the impact of the petition, as both corridors are very important to overall development patterns in terms of land use and traffic management.

Staff took a very careful look at existing and projected uses in the area in conducting its evaluation. It would appear that the ground immediately at the intersection has been developed commercially to serve the many residences that are located in the area.

To the north is a well established residential subdivision that is somewhat buffered from these commercial uses by a drainage ditch. To the east is an area of open ground which also abuts a well established residential subdivision.

Staff's concern are with preserving the residential integrity of existing properties to the north and east, and the impact that the rezoning could have on infrastructure and safety issues.

This petition allows the Plan Commission the opportunity to establish a strong policy for development in the area surrounding this intersection. As the Comprehensive Plan suggests, compatibility and balanced development are needed. Staff would suggest that the maximum commercial growth to the north is the northern extent of the already developed commercial area. Any further commercial uses would negatively impact the established residential uses. The petitioner understands the reasonableness of this suggestion and has included the rezoning of the northern 140 foot parcel to R-1 as requested by staff.

Staff would further suggest that the eastern boundary of this petition also represents the maximum extent of commercial uses. The open ground between the existing Stellhorn Village and the residences in Maplewood Terrace should be utilized as a transitional or buffer zoning. The current zoning would allow some blending of multi-family and duplex uses, with the possibility of offices closest to the commercial area.

The Stellhorn Road frontage is a bit different. Currently there are commercial zonings along Stellhorn Road, with the exception of approximately 2 acres which has been included in this petition.

Approval of this petition allows the developer the opportunity to include some additional uses that could intensify the nature of the development. Likewise, approval would allow for a potential increase in density of development. Increases in density and intensification of uses could place additional demands on the

existing infrastructure. Staff has been advised through the Transportation and Technical Committee that additional right-of-way is needed along Maplecrest Road in order to facilitate safe traffic movement by allowing a street widening project, and other intersection improvements.

Staff recognizes that approval of this petition would allow the developer maximum growth potential, consistent with the general character of commercial development at this intersection. Setting a firm policy for future growth (north and east) would also provide a certain level of protection for the established residential uses.

Other concerns have been raised during the evaluation process, and through conversations with surrounding residents. Residents to the north have expressed a concern with a perceived failure to implement and maintain a landscape buffer along the northern portions of the existing development. Staff has suggested to the developer that consideration be given to a private agreement with the neighborhood association, or abutting owners, that would provide for establishment and maintenance of an acceptable landscape buffer. Such agreement would clearly reinforce the staff's suggested policy for growth in this area, and would potentially encourage the residents to support this petition.

Staff believes that the requested B-1-B zoning would provide compatibility and balance in view of the zoning and existing development of the other three corners. The loss of development plan control over the acreage is somewhat offset by placement of the strong policy regarding future development to the north and east. While we have a remaining concern regarding potential traffic safety, that will be addressed with future improvements to Maplecrest Road.

Recommendation: Conditional Approval, contingent upon the developer satisfying the following:

- 1) As a landscape buffer was a mandated requirement of approval when this site was developed, the developer should enter into a restrictive covenant (or alternative contractual means) setting forth the establishment and maintenance of a landscape buffer as originally shown on the development plan, and should run to the satisfaction and enforcement of the Maplewood Terrace and Downs Neighborhood Association.

When such document is signed and recorded, the staff would recommend the following:

The southern acreage as described in the petition should be rezoned to B-1-B, and the northern acreage as described in the petition should be rezoned to R-1, all for the following reasons:

- 1) Approval is consistent with the Comprehensive Plan.

2) Approval is consistent with the existing development and zoning patterns in the area.

3) Approval should not have any negative impact on area property values.